

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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:
: AMERICAN CIVIL LIBERTIES UNION; :
: AMERICAN BOOKSELLERS FOUNDATION FOR : Civil Action
: FREE EXPRESSION; ANDROGYNY BOOKS, INC. : No. 98-CV-5591
: d/b/a A DIFFERENT LIGHT BOOKSTORES; :
: ADDAZI, INC. d/b/a CONDOMANIA; :
: HEATHER CORINNA REARICK; ELECTRONIC :
: FRONTIER FOUNDATION; ELECTRONIC PRIVACY :
: INFORMATION CENTER; FREE SPEECH MEDIA; :
: NERVE.COM, INC.; AARON PECKHAM d/b/a URBAN :
: DICTIONARY; PHILADELPHIA GAY NEWS; :
: PLANETOUT, INC.; POWELL'S BOOKSTORES; :
: PUBLIC COMMUNICATORS, INC.; SALON :
: MEDIA GROUP, INC; DAN SAVAGE; :
: and SEXUAL HEALTH NETWORK; :
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: Plaintiffs, :
:
: v. :
:
: ALBERTO R. GONZALES, in his official capacity as :
: ATTORNEY GENERAL OF THE UNITED STATES, :
:
: Defendant. :
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**PLAINTIFFS' RESPONSE TO DEFENDANT'S MOTION TO AMEND
CASE MANAGEMENT ORDER**

As Plaintiffs have previously informed the Court, although Plaintiffs have been prepared to proceed with the pre-trial schedule presently set forth in Pre-trial Order No. 14 (the Case Management Order), Plaintiffs are agreeable to an extension of the deadlines to accommodate Defendant. To that end, Plaintiffs proposed a new pre-trial schedule to Defendant that Plaintiffs believe would provide the parties with adequate time to prepare for trial in a diligent and thorough manner. Defendant rejected those dates.

As the following chart details, the dates proposed by Plaintiffs are not that different from those proposed by Defendant in its motion to amend the pre-trial schedule.

	Present Schedule	Defendant's Proposal	Plaintiffs' Proposal
Fact Discovery Cut-off	12/15/05	3/15/06	Party: 1/27/06 Third-Party: 2/15/06
Expert Principal Report	12/15/05	4/1/06	3/15/06
Expert Rebuttal Report	2/1/06	6/1/06	5/12/06
Expert Depositions Begin	2/15/06	6/15/06	5/26/06
Expert Discovery Cut-off	3/15/06	8/1/06	6/30/06
Dispositive Motions Deadline	3/31/06	8/15/06	7/14/06
Motions in Limine	4/17/06; responses: 5/8/06	9/1/06; responses: 9/22/06	8/4/06; responses: 8/25/06
Stipulations	5/15/06	10/6/06	9/12/06
Pretrial Orders	5/15/06	10/20/06	9/12/06
Trial	6/12/06	11/15/06	10/9/06

The principal difference is that Plaintiffs have proposed a six-week extension for party discovery, while Defendant would like a three-month extension for party discovery. Plaintiffs have asked Defendant on several occasions to explain what additional party discovery is contemplated (beyond the broad party discovery that has already been served) that cannot be completed by Plaintiffs' proposed new deadline. Defendant has never provided an adequate explanation. As a result, Plaintiffs are not convinced that a three-month extension of time for party discovery is necessary. To the extent Defendant explains at the December 6, 2005 hearing why so much additional time is necessary to conduct new party discovery, Plaintiffs are amenable to the schedule proposed by Defendant. Plaintiffs would suggest, however, that Defendant's proposed schedule be

moved forward slightly to avoid having the trial proceedings occur over the Thanksgiving holiday.

Respectfully submitted,

DATE: December 1, 2005

/s/

ADEN J. FINE

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2005, a true and correct copy of Plaintiffs' Response to Defendant's Motion to Amend the Case Management Order was filed electronically via the Court's ECF system, through which a notice of the filing will be sent to:

Karen Stewart
United States Department of Justice
Civil Division, Room 7200
20 Massachusetts Avenue NW
Washington, D.C. 20530

/s/
Aden J. Fine